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YAKULT U.S.A. INC.

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

Yakult U.S.A. Inc.,

Plaintiff,

v.

R. R. Importaciones Inc.,

Defendant.

Case No. 1:22-cv-01826 (PKC)

**[PROPOSED] DEFAULT
JUDGMENT**

WHEREAS, Plaintiff Yakult U.S.A. Inc. (“YUSA”) commenced this action against Defendant R. R. Importaciones Inc. (“R. R. Importaciones”) on March 3, 2022 based on R. R. Importaciones’ unauthorized importation, distribution, and sale of Yakult probiotic drinks (“Yakult”) that were not intended for sale in the United States. The Complaint asserts claims under the Lanham Act (15 U.S.C. § 1125), New York General Business Law Sections 349 and 350, and New York Common Law;

WHEREAS, YUSA duly served R. R. Importaciones with copies of the Summons and Complaint on March 7, 2022 and filed proof of such service with the Court on March 17, 2022;

WHEREAS, the Clerk’s Certificate of Default was filed with the Court on April 13, 2022;

WHEREAS, R. R. Importaciones has not made a general or special appearance of any kind and has not answered or otherwise responded to the Complaint;

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, and DECREED:

1. R. R. Importaciones is hereby found liable for false designation of origin and unfair competition under Section 43(a) of the Lanham Act, 15 U.S.C. § 1125; deceptive acts and practices under New York General Business Law Section 349; false advertising under New York General Business Law Section 350; and Unfair Competition under New York Common Law.

2. R. R. Importaciones and its officers, agents, servants, employees, affiliates, successors, assigns, and all persons acting in concert or participation with them, are permanently enjoined from doing any of the following acts, either directly or indirectly:

- a. Acquiring, transporting, distributing, developing, offering to sell, or selling Yakult;
- b. Causing any likelihood of confusion, deception, or mistake as to the source, nature, or quality of Yakult or any other product manufactured, distributed, or sold by YUSA;
- c. Using any false designation of origin or false representation concerning Yakult or any other products manufactured, distributed, or sold by YUSA; and
- d. Engaging in any acts of deceptive trade practices or false advertising affecting YUSA, Yakult, or any other products manufactured, distributed, or sold by YUSA.

3. YUSA's request for a damages inquest is granted. In light of R. R. Importaciones' tactical failure to produce any documents in this action, preventing YUSA from ascertaining its

illicit profits, an inquest shall be conducted to determine the amount of damages, attorneys' fees, and costs to be awarded to YUSA.

Dated: _____, 2022
New York, NY

Honorable P. Kevin Castel
United States District Judge